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Letter dated 18 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 12 April 2002 (S/2002/458).

The Counter-Terrorism Committee has received the attached supplementary report from Morocco, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant
to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Note verbale dated 10 July 2002 from the Permanent Mission of Morocco to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Morocco to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) and has the honour to transmit to it herewith Morocco's supplementary report on the implementation of Security Council resolution 1373 (2001) (see enclosure).

The Permanent Mission of Morocco to the United Nations takes this opportunity to convey to the Counter-Terrorism Committee the renewed assurances of its highest consideration.

Enclosure

Response to the Counter-Terrorism Committee's questionnaire concerning the report on the measures taken by the Government of Morocco in implementation of Security Council resolution 1373 (2001) concerning counter-terrorism

Subparagraph 1 (a)

The Ministry of the Economy, Finance, Privatization and Tourism has requested banks and financial establishments to prevent movements of funds intended for terrorist purposes. Please inform the Committee whether there is a legal or regulatory basis for this request.

The request to banks by the Ministry of the Economy, Finance, Privatization and Tourism to prevent movements of funds intended for the financing of terrorism was formulated pursuant to the provisions of article 1 of the Dahir of 10 September 1939 which prohibits the export of capital without authorization by the Minister responsible for finance.

How are banks and financial establishments expected to respond to this request?

By virtue of the powers conferred on it by Dahir No. 1-93-147 of 6 July 1993, the Central Bank, in circular G6 of 19 February 2001, introduced an obligation for credit establishments to equip themselves with an internal control system. Article 70 of the circular requires credit establishments to take all precautions and appropriate measures to avoid the occurrence of any event that might involve them in illegal operations, blemish their reputation or impair the repute of the profession.

Which acts constitute, in Moroccan practice, a suspicious movement of funds in the context of subparagraph 1 (a) of the resolution?

There are no specific criteria for determining the suspect nature of a movement of funds. However, the banks have control mechanisms which enable them to monitor the operations or transactions made and to verify the internal procedures relating inter alia to the opening and identification of accounts, the monitoring of transactions and the amounts concerned (general inspection, internal and external audits, formalized data-processing tools). In addition, it should be pointed out that some banks have instituted specific mechanisms for combating capital laundering based on knowledge of the clients, monitoring of operations and detection of suspect operations.

Are the circular letters from the Exchange Office legally binding?

Paragraph 1 of the Dahir of 10 September 1939 provided that the Minister responsible for finance may delegate his powers with respect to the granting of authorizations for the export of capital. These powers were delegated to the Exchange Office by article 1 of Dahir No. 1-58-021 of 22 January 1958 concerning the Exchange Office. Consequently, the circulars of the Exchange Office are legally enforceable.

In view of the efforts of the international community to stop the abuse of informal banking networks (such as hawala), please comment on how this is or has been reflected by Moroccan legislation.

There are no informal banking networks in Morocco, given that all banks are approved by decree of the Minister responsible for finance, pursuant to the provisions of article 21 of Dahir No. 1-93-147 of 6 July 1993 on the exercise of the activity of credit establishments and their control. Moreover, it should be pointed out that articles 80 and 81 of the above Dahir provide for criminal penalties against any person engaging in banking or activities without authorization.

Subparagraph 1 (b)

Please clarify whether article 295 of the Moroccan Penal Code, which deals with aiding and abetting criminals, is the only legal basis for punishment of the acts listed in paragraph 1 (b) of the resolution.

Article 295 of the Moroccan Penal Code is not the only source for the punishment of the acts listed in paragraph 1 (b) of resolution 1373. Although this article deals exhaustively with the issue of all forms of assistance to criminals, it also applies to assistance that may be provided to terrorists in the perpetration of their acts. Other articles of the Penal Code also relate to aiding and abetting criminals. Mention may be made among others of:

Article 297, which deals with harbouring wanted criminals, attempting to protect them from arrest or helping them escape;

Articles 311 to 316 relating to assistance in the escape of prisoners.

It is noted that Morocco is currently preparing amendments of the Penal Code and completing the ratification procedures for the International Convention for the Suppression of the Financing of Terrorism. Does Morocco intend to make the financing of terrorism an autonomous offence?

The recasting of the Moroccan Penal Code is under study, and taking into account the particular importance attached to the issue of terrorism, the latter will be incorporated in the category of serious crimes, given that the Code punishes by criminal sentences most of the crimes regarded as terrorist acts. It is the nature of the penalty imposed for a criminal act which determines whether it falls within the category of crimes, offences or infractions.

Subparagraph 1 (c)

How does Moroccan law permit the freezing of funds as required by subparagraph 1 (c)?

Moroccan legislation permits the freezing of funds as a protective measures pending a judicial decision.

Subparagraph 1 (d)

What provisions are there for ensuring that funds received by associations for specific purposes are not used to finance terrorist activities?

In the context of Morocco's resolve to join in the efforts of the international community to combat capital laundering and the financing of terrorism, measures have been taken by the Ministry of the Economy, Finance, Privatization and Tourism to subject movements of funds within the country to authorization. These have been enacted as administrative measures. In the course of this year Morocco will establish

legal machinery for combating these two scourges which should provide inter alia for:

- The categorization of capital laundering and the financing of terrorism as crimes;
- The obligation for financial institutions to make statements of suspicion with respect to all operations relating to capital laundering or to acts associated with the financing of terrorism;
- Freezing of the funds and assets of terrorists and their sponsors;
- The establishment of an autonomous structure to process financial information relating to capital laundering and the financing of terrorism, along the lines of TRACFIN in France.

Subparagraph 2 (a)

Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Morocco, including, in particular:

- *The carrying out, within or from Morocco, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and*
- *Deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collection of funds through front organizations.*

Articles 1 and 5 of the Dahir of 12 October 1971 prohibit the collecting of funds without prior authorization from the competent Moroccan public authorities.

Subparagraph 2 (b)

The Counter-Terrorism Committee notes the issuing of a government circular requesting the various ministerial departments to collaborate closely in order to ensure the full implementation of the relevant international legal instruments. In that context, please provide the Committee with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.

An identity check is performed on any person crossing at a border checkpoint. This verification is performed by consulting a computerized database containing the list of persons wanted at the national or international level. This list, which is constantly updated, also includes the names of persons involved in terrorist acts.

Subparagraph 2 (c)

Please outline the relevant provisions of Moroccan legislation which implement subparagraph 2 (c) of the resolution.

Article 129, paragraph 4, of the Penal Code treats as accomplices in a crime or offence those who, without directly participating in the infraction, have, while aware of their criminal conduct, habitually provided accommodation, a place of

concealment or a meeting place for one or more persons engaging in armed robbery or violence against the security of the State, public order, persons or property.

Subparagraph 2 (d)

Does the background check of an alien applying for the issue or renewal of a residence card include a check on whether the person is involved in a terrorist activity against a foreign country? What is the Moroccan practice if this is found to be the case?

Any foreigner applying for a residence card, is the subject of the investigation into his morals and known judicial background in Morocco. The application is refused if the applicant's presence in Moroccan territory may impair the interests of the State. It should also be pointed out that the investigations of applicants for residence in Morocco requested of the countries of origin cannot be made through the normal channel of the Interpol Central Office, as these cases relate only to requests for purely administrative information.

How are Moroccan citizens involved in terrorist activities against foreign countries dealt with?

Three situations may arise in the case of a Moroccan national being involved in terrorist activities:

- The act is committed on Moroccan territory: in this case Moroccan justice is competent to initiate proceedings and rule on the matter;
- The act is committed in a foreign country by a Moroccan citizen who takes refuge in Morocco: in this case, the applicable Moroccan legislative provisions do not permit his extradition. Nevertheless, the accused may be tried in Morocco if the competent Moroccan authorities receive official notification on the subject;
- A Moroccan citizen is detained abroad: requests for information on the detainee made by the state of detention are communicated to it as rapidly as possible.

Subparagraph 2 (e)

Are there provisions in the Moroccan Penal Code or the Moroccan Code of Penal Procedure which criminalize all terrorist acts committed abroad by a Moroccan citizen or by a person having his or her habitual residence in Morocco and give jurisdiction to the Moroccan courts over such persons?

Articles 748 to 756 of the Code of Penal Procedure deal with jurisdiction concerning certain offences committed outside the Kingdom of Morocco.

Moroccan courts are competent to try any Moroccan and any person who has acquired Moroccan nationality for criminal acts committed outside Moroccan territory that are defined as crimes or offences, if the alleged guilty party returns to Morocco and is unable to prove that he was the subject of an irrevocable decision (article 751). Prosecution in Morocco is possible even if the alleged guilty party obtained Moroccan nationality after carrying out a criminal act.

Are there provisions in Moroccan legislation which criminalize terrorist acts committed abroad by foreigners and give jurisdiction to Moroccan courts over such persons if they happen to be in Morocco?

The jurisdiction of Moroccan courts to judge the principal act extends to all acts of complicity or concealment, even those perpetrated outside the Kingdom by foreigners (article 748, paragraph 3).

Subparagraph 2 (f)

Please outline the relevant domestic legal provisions governing legal assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorists acts and in connection with extradition.

Articles 166 to 170 and 757 to 760 of the Code of Penal Procedure deal with the question of legal assistance in connection with investigations and criminal proceedings in criminal cases.

What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings relating to the financing or other support of terrorist acts is required to be met and how long, on average, does it actually take in practice to implement such a request in Morocco?

Investigations and criminal proceedings in crimes relating to the financing and support of terrorist activities are accorded priority and exceptional importance.

The time allotted to carry them out varies from case to case depending on the nature of the investigations and their subject and complexity and cannot, in any case, exceed two months (cf.: case involving the Al-Qaida network in Morocco under investigation).

Subparagraph 2 (g)

Please explain how the procedures for the issuance of identity papers and travel documents prevent the counterfeiting, forgery or fraudulent use of those documents and what measures exist to prevent their forgery etc.

The issuance of identity papers and travel documents is subject to a complex procedure designed to prevent any type of forgery.

In addition, monitoring personnel at border posts are equipped with the appropriate technical means for detecting and discovering any case of forgery, counterfeiting or usurpation of identity.

How does Morocco define the term "high-risk countries", which appears under subparagraphs (g) and (h) of the report (page 11)?

The Kingdom of Morocco is firmly committed to respect for international legality and therefore considers any country which offers itself as a base for hostile activities against other foreign countries a "high-risk country".

How does Morocco secure its extensive borders against persons coming from "high-risk countries"?

What action has been taken or is proposed by Morocco to implement controls at its ports in order to prevent the movement of persons involved, or alleged to be involved, in terrorist acts?

In addition to security and control measures at border posts, including ports, the personnel of the various security services (the police, royal gendarmerie, the royal armed forces ...) vigilantly ensure the defence of the national territory and land, air and sea surveillance of the Kingdom's extensive frontiers.

Accordingly, within the framework of Morocco's participation in the international campaign to combat international terrorism in all its forms and thanks to the coordination of the Kingdom's border security and control services with their counterparts abroad, they have been able to identify, arrest and dismantle an Al-Qaida cell that was preparing to carry out attacks from our country.

This cell, which was exposed in mid-May 2002, was preparing terrorist acts in Morocco and against foreign interests in the Strait of Gibraltar.

Subparagraph 3 (c)

According to the report, Morocco has concluded more than 30 relevant conventions with 18 States. Please specify with which of these countries Morocco has entered into extradition treaties on the one hand and into treaties on mutual assistance in criminal matters on the other.

Morocco has concluded the following bilateral agreements on legal cooperation and extradition:

1. **Bilateral convention on extradition:**

Belgium	Agreement on Extradition, signed on 7 July 1997

2. **Bilateral assistance conventions in criminal matters:**

Algeria	Convention on Mutual Assistance and Legal Cooperation, signed on 15 March 1963, and the Protocol thereto
Spain	Convention concerning Judicial Assistance in Criminal Matters and Extradition, signed on 30 May 1997
Romania	Convention on Legal Assistance in Civil and Criminal Matters, signed on 30 August 1972
Poland	Convention on Legal Assistance in Civil and Criminal Matters, signed on 21 May 1979
United States of America	Convention on Legal Assistance in Criminal Matters, signed on 17 October 1983
Belgium	Agreement on Legal Assistance in Criminal Matters, signed on 7 July 1997
Portugal	Convention on Legal Assistance in Criminal Matters, signed on 14 November 1998

3. Bilateral conventions on criminal matters and extradition

France	Convention on Mutual Legal Assistance, Execution of Decisions and Extradition, signed on 5 October 1959
Gabon	Convention on Mutual Legal Assistance, Exchange of Legal Information, Execution of Decisions and Extradition, signed on 27 February 1989
Italy	Convention on Mutual Legal Assistance, Execution of Decisions and Extradition, signed on 12 February 1971
Mauritania	Convention on Legal Cooperation and Extradition, signed on 20 September 1972
Senegal	Convention on Legal Cooperation, Execution of Decisions and Extradition, signed on 3 July 1967
Tunisia	Convention on Legal Cooperation, Execution of Decisions and Extradition, signed on 9 December 1964
Turkey	Convention on Legal Assistance in Criminal Matters and Extradition, signed on 15 May 1989
Egypt	Convention on Legal Cooperation in Criminal Matters and Extradition, signed on 22 March 1989
Libyan Arab Jamahiriya	Convention on Notifications, Letters Rogatory, Execution of Decisions and Extradition, signed on 27 December 1962
United Arab Emirates	Agreement on Legal Cooperation, Execution of Decisions and Extradition, signed on 18 January 1978

Do any of the conventions mentioned in the report specifically concern terrorists or the prevention and suppression of terrorist acts?

These bilateral conventions do not specifically deal with the question of terrorism, they concern crime in all its forms.

Please clarify what is meant by "revitalization of bilateral agreements concluded on legal cooperation and extradition" in part II.A.8 of the report.

The Kingdom of Morocco is bound by a considerable number of bilateral legal cooperation agreements. Following the ratification of the international instruments on combating terrorism, there are plans to adapt them to the new commitments undertaken by Morocco under these international conventions.

Subparagraph 3 (d)

The Counter-Terrorism Committee would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Morocco in:

- *Becoming a party to the instruments to which it is not yet a party; and*
- *Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.*

Prior to the events of 11 September, Morocco had already ratified four conventions and protocols directly related to terrorism. They were:

(1) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted at Tokyo on 14 September 1963. Morocco acceded on 24 October 1975;

(2) The Convention for the Suppression of Unlawful Seizure of Aircraft, adopted at The Hague on 16 December 1970. Morocco acceded on 24 October 1975;

(3) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted at Montreal on 23 September 1971. Morocco acceded on 24 October 1975;

(4) The Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted at Montreal on 1 March 1991. Morocco acceded on 19 March 1999.

Following those tragic events and as a result of a speeding up of the internal procedures required for the purpose, Morocco has ratified four further conventions and protocols. They are:

(1) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 23 September 1971. **Morocco ratified on 13 November 2001**;

(2) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973. **Morocco ratified on 13 November 2001**;

(3) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at Rome on 10 March 1988. **Morocco ratified on 13 November 2001**;

(4) The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted at Rome on 10 March 1988. **Morocco ratified on 13 November 2001**.

The procedure for ratification of and accession to four additional conventions is in its final stage. They are:

(1) The International Convention against the Taking of Hostages, adopted at New York on 17 December 1979;

(2) The Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

(3) The International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;

(4) The International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999. Signed by Morocco on 12 October 2001.

Morocco has also succeeded to, ratified or acceded to 11 conventions and protocols indirectly related to terrorism. These are:

(1) The International Opium Convention, adopted at Geneva on 12 February 1925. Morocco notified its succession to this Convention on 7 November 1956;

(2) The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, adopted at Geneva on 13 July 1931. Morocco notified its succession to this Convention on 7 November 1956;

(3) The Protocol amending the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, done at New York on 11 December 1946. Morocco notified its succession to this Protocol on 7 November 1956;

(4) The Protocol Bringing Under International Control Drugs Outside the Scope of the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, as amended by the Protocol adopted in New York on 11 December 1946. Morocco notified its succession to this Convention on 7 November 1956;

(5) The Single Convention on Narcotic Drugs of 1961. Morocco acceded to this Convention on 22 October 1966;

(6) The Convention on Psychotropic Substances, adopted at Vienna on 21 February 1971. Morocco acceded to this Convention on 7 November 1979;

(7) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Morocco ratified this Convention on 9 October 1992;

(8) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Paris, 13 January 1993. Morocco acceded on 28 December 1995;

(9) The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, adopted at Geneva on 10 October 1980. Ratified by Morocco on 10 April 2001;

(10) The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, adopted on 2 May 1972. **Morocco ratified on 29 January 2002**;

(11) The 1972 Protocol amending the Single Convention on Narcotic Drugs of 1961. **Morocco ratified on 29 January 2002**.

In addition, the procedure for ratification of the United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000, is in its final stage.

Thus, out of a total of 24 conventions and protocols directly or indirectly related to terrorism, Morocco has completed the procedure for acceding to or ratifying 19. For the other five, this procedure is in its final stage.

Subparagraph 3 (e)

Have the crimes set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties which Morocco has concluded with other countries?

On the whole, the crimes covered by the bilateral conventions concluded between Morocco and other foreign countries which are regarded as crimes of terrorism entail extradition, as provided for in the United Nations conventions against terrorism, with the exception of political crimes or crimes of a political nature and crimes involving a breach of military obligations.

Subparagraph 3 (f)

Please clarify how, by the verification of the morality, income and legal record of a person, Morocco ensures that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, given the particular requirements of section F of article 1 of the Convention Relating to the Status of Refugees, to which Morocco is party.

The inquiries conducted by the police services are extremely specific regarding the various aspects of the refugee's life and are punctilious about his previous political activities. Once this status is accorded, the services ensure that the refugee respects the obligations deriving from his status.

Subparagraph 3 (g)

According to article 5 of Dahir No. 1-58-057 of 8 November 1958, extradition is refused when the offence has a political character. Please clarify the legal effect of this provision in view of subparagraph 3 (g) of the resolution, which requires States to ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.

All of the bilateral conventions concluded between Morocco and other countries with relation to the extradition of foreigners provide for refusal of requests for extradition in cases where the crimes to which the request relates are political in nature or associated with a political crime, pursuant to article 5 of Dahir No. 1-58-057 of 8 November 1958 on the extradition of foreigners. With regard to the legal effects of this provision in the light of paragraph 3 (g) of Security Council resolution 1373 (2001), which recommends ensuring that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists, the amendment of Moroccan penal legislation which is under way will make it possible to introduce new provisions that will have to adapt to the provisions of the International Convention on the Financing of Terrorism, the procedure for ratification of which by Morocco is in its final stage.

Other matters

Could Morocco please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

The information on Moroccan administrative machinery is available on the web site of the Ministry of Culture and Communication at the following address: http://www.mincom.gov.ma/mol/content/.